

REMARKS

This Amendment is made in response to the Office Action dated September 6, 2006. Claims 94-107 are pending in the application. By this Amendment, claims 94, 97-101, 104 and 105 have been amended to better define the presently claimed invention. New claims 108-111 are being presented for consideration. Favorable reconsideration is respectfully requested.

Claims 97 and 99 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter which applicant regards as the invention. Claims 97 and 99 have been amended and it is believed that the current amendment better defines the currently claimed invention and should overcome the Examiner's 112 second paragraph rejection.

Claims 94-96, 98 and 100-107 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,171,327 to Daniel et al. (the "Daniel patent"). Applicants note that independent claims 94 and 101 have been amended to include the recitation that at least two peak regions have different heights. Claim 105 includes the recitation that the valley regions are staggered so that the valley regions do not enter the catheter at the same time. Applicants submit that the particular structure of the filter element recited in the amended, pending claims is not disclosed in the Daniel patent. First, it is noted that all of the peaks regions of the filter elements shown in the Daniel patent have the same height. Neither the drawings nor the specification disclose that the peak regions have staggered or different heights as recited in the pending claims. Additionally, the Daniel patent fails to disclose valley regions having different depths. While the Examiner states that the Daniel patent has valley regions with different depths, the Examiner fails to state where in the Daniel patent such a structural configuration is shown. Applicants' review of the Daniel patent failed to find any support for the Examiner's position. Rather, the Daniel patent shows a structure in which all of the valley regions are uniform in depth.

Accordingly, Applicants respectfully request the Examiner to withdraw the Daniel patent as an anticipatory reference.

Claims 94, 96, 97, 99, 105 and 106 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,152,946 to Broome et al. (the “Broome patent”). As noted above, the claims have been amended to recite a particular structure of the filter element which is not disclosed in the Broome patent. First, Applicants strongly disagree with the Examiner's position that the Broome patent discloses a filter element having a pattern of alternating peak regions and valley regions in which the peak and valley regions are staggered or have different height and depths. Figures 1 and 2 apparently attempt to depict a perspective view of the filter device in an expanded and collapsed position. However, since the views are in perspective, it is not certain from the drawings if the peak regions have different heights or the valley regions have different depths since the entire filter edge is not fully shown and parts of the filter edge are obscured by the frame 34. Moreover, a perspective view is designed to provide a three dimensional view of the object and as such will depict elements having the same size and shape differently to generate the three dimensional look. Most importantly, however, the specification of the Broome patent which describes the filter element 22 and frame 34 of Figures 1 and 2 fails to state or disclose that the frame 34 or filter element 22 uses alternating peak and valley regions having different heights and depths. Rather, the specification merely states that the mouth 28 of the frame is formed of a pleated ring 34. Therefore, neither the drawings nor the specification supports the Examiner's position regarding the Broome patent. Applicants believe that one viewing the drawings of the Broome patent can only speculate that the peak regions and valley regions have different heights and depths. However, when read in conjunction with the Broome specification, there can be no reasonable grounds to interpret the drawings as the Examiner has done in order to support the anticipatory rejection. Accordingly, Applicants respectfully request the Examiner to withdraw the Broome patent as an anticipatory reference.

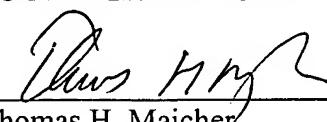
The Examiner has rejected claims 94, 95 and 101-103 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,575,995 to Huter et al. (the "Huter patent"). Applicants respectfully note to the Examiner that the Huter patent is not prior art to the present application as the present application is a continuation of U.S. Serial No. 09/476,159 filed on December 30, 1999. Accordingly, Applicants respectfully request the Examiner to withdraw the Huter patent as an anticipatory reference.

In view of the foregoing, it is respectfully urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at (310) 824-5555 to facilitate prosecution of this application, if necessary.

In light of the above amendments and remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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